

REMARKS

Reconsideration and allowance of this application are respectfully requested in light of the foregoing amendments and the following remarks.

Claim Status

Claims 1-32 are currently pending in the application. Claims 9-10, 13-14, 25-26 and 29-30 have been amended. No new matter was added.

Claim Objections

Claims 9, 10, 13, 14, 25, 26, 29 and 30 stand objected to because of an informality. Applicant has made the changes suggested by the Examiner (changing "°c" to "°C") and respectfully requests that the objection to these claims be removed and the claims allowed.

§112 Rejection

Claims 12 and 28 stand rejected under 35 USC § 112, second paragraph.

The Office avers that the Applicant's use of the term "freshly coated" is relative and renders the claim indefinite. Applicant traverses. Applicant respectfully disagrees with these rejections as M.P.E.P. §2111.01 clearly states that:

During examination, the claims must be interpreted as broadly as the terms allow. In *re American Academy of Science Tech Center*, 367 F.3d 1359, 1369, 70 U.S.P.Q.2d 1827, 1834 (Fed. Cir. 2004)... This means that the words of the claim must be given their plain meaning unless applicant has provided a clear definition in the specification. In *re Zletz*, 893 F.2d 319, 321, 13 U.S.P.Q.2d 1320, 1322 (Fed. Cir. 1989); *Chef America, Inc. v. Lamb-Weston, Inc.*, 358 F.3d 1371, 1372, 69 U.S.P.Q.2d 1857 (Fed. Cir. 2004) (Ordinarily, simple English words whose meaning is clear and unquestionable, absent any indication that their use in a particular context changes their meaning, are construed to mean exactly what they say.

Referring to the dictionary definitions from *Webster's New Twentieth Century Dictionary*, 2nd Edition (1983) and *Webster's Third New International Dictionary* (1993) which are included with this submission, the term "freshly" is defined as "recently; just now; newly and in a fresh manner". (See attached submission). Based on the dictionary definitions, and the knowledge of one of ordinary skill in the art, a person of ordinary skill in the art would be reasonably apprised that the scope of the invention would include a battery separator which was newly or recently coated with a polymer and first and second surfactant combination. In light of this information, Applicant respectfully requests that the rejection of these claims under 35 USC § 112 be removed and the claims allowed.

35 USC § 103 Rejection

Claims 1-32 stand rejected under 35 USC §103(a), as being unpatentable over Taskier (US 4,298,666) in view of Buntin (US

3,811,957). Applicant traverses. The rejection of claims 1-32 as unpatentable over Taskier in view of Buntin must fail because all elements of the invention are not disclosed. Specifically, neither Taskier nor Buntin mention "said second surfactant which is an oxirane polymer ...". Thus, claims 1-32 are not unpatentable over Taskier in view of Buntin and should be allowed.

Claims 1-32 also stand rejected under 35 USC §103(a), as being obvious over Wensley (US 6,479,190) in view of Taskier (US 4,298,666). Applicant traverses. The rejection of claims 1-32 as obvious over Wensley in view of Taskier must fail because all elements of the invention are not disclosed. Specifically, neither Wensley nor Taskier mention "said second surfactant which is an oxirane polymer ...". Thus, claims 1-32 are not obvious over Wensley in view of Taskier and should be allowed.

Claims 1-32 also stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15 of Wensley (US 6,479,190) in view of Taskier (US 4,298,666). Applicant traverses. In *In re Longi*, the Federal Circuit discussed the similarity between rejections under §103 and "obviousness-type" double patenting:

We note that the Board did not make the instant rejections under §103. However, a double patenting of the obviousness type rejection is "analogous to [a failure to meet] the non-obviousness requirement of 35

U.S.C. §103," except that the patent principally underlying the double patenting rejection is not considered prior art. *In re Braithwaite*, 379 F.2d 594, 600, n.4, 54 C.C.P.A. 1589, 1597, n.4, 154 U.S.P.Q. 29, 34 (1967). Therefore, our analysis concerning the correctness of the Board's decision in the instant case parallels our previous guidelines for a §103 rejection. See, e.g., *In re De Blauwe*, 736 F.2d 699, 222 U.S.P.Q. 191 (Fed. Cir. 1984). *In re Longi*, 759, F.2d at 892 n.4, 225 U.S.P.Q. at 648 n.4.

Rather than file a terminal disclaimer, an applicant may overcome an obviousness-type double patenting rejection by arguing that the rejected claims are patentably distinct from the claims of the patent that is the bases of the rejection. *General Foods Corp. v. Studiengesellschaft Kohle MbH*, 972 F.2d 1272, 1278, 23 U.S.P.Q.2d 1839, 1843 (Fed. Cir. 1992); *In re Borah*, 354 F.2d 1009, 1018-19, 148 U.S.P.Q. 213, 221 (C.C.P.A. 1966). Overcoming the double patenting rejection "on the merits," in essence, means that the rejected claims need to be shown to be unobvious in view of the claim(s) upon which they were rejected. See *id.*

As stated previously, the rejection of claims 1-32 as unpatentable over Wensley in view of Taskier must fail because all elements of the invention are not disclosed. Specifically, neither Wensley nor Taskier mention "said second surfactant which is an oxirane polymer ...". Thus, claims 1-32 are not unpatentable over Wensley in view of Taskier and should be allowed.

Conclusion

In view of the foregoing, Applicant respectfully requests an early Notice of Allowance in this application.

Respectfully submitted,



Robert H. Hammer III
Attorney for Applicant
Reg. No. 31,764

Customer No. 29494
Hammer & Hanf, P.C.
3125 Springbank Lane
Suite G
Charlotte, NC 28226
Telephone: 704-927-0400
Facsimile: 704-927-0485

H:\2000\142\Amendment082907.doc

WEBSTER'S NEW UNIVERSAL UNABRIDGED DICTIONARY

DELUXE
SECOND EDITION

BASED UPON THE BROAD FOUNDATIONS LAID DOWN BY

Noah Webster

EXTENSIVELY REVISED BY THE PUBLISHER'S EDITORIAL STAFF UNDER THE GENERAL SUPERVISION OF

JEAN L. McKECHNIE

INCLUDING ETYMOLOGIES, FULL PRONUNCIATIONS, SYNONYMS, AND AN ENCYCLOPEDIC SUPPLEMENT OF GEOGRAPHICAL AND BIOGRAPHICAL DATA, SCRIPTURE PROPER NAMES, FOREIGN WORDS AND PHRASES, PRACTICAL BUSINESS MATHEMATICS, ABBREVIATIONS, TABLES OF WEIGHTS AND MEASURES, SIGNS AND SYMBOLS, AND FORMS OF ADDRESS

ILLUSTRATED THROUGHOUT

Dorset & Baber

WEBSTER'S NEW TWENTIETH CENTURY DICTIONARY

Second Edition

Copyright © 1983 and 1955, 1956, 1957, 1958, 1959, 1960, 1962, 1964,
1968, 1970, 1975, 1977, 1979 by Simon & Schuster, a Division of Gulf & Western Corporation
Full-Color Plates Copyright © 1972 by Simon & Schuster, a Division of Gulf & Western Corporation
All rights reserved
including the right of reproduction
in whole or in part in any form
Published by New World Dictionaries/Simon and Schuster
A Simon & Schuster Division of Gulf & Western Corporation
Simon & Schuster Building
Rockefeller Center
1230 Avenue of the Americas
New York, New York 10020
SIMON AND SCHUSTER, TREE OF KNOWLEDGE and colophon are trademarks
of Simon & Schuster.

Dictionary Editorial Offices
New World Dictionaries
850 Euclid Avenue
Cleveland, Ohio 44114

Manufactured in the United States of America

K 20 19 18 17 16 15 14 13 12

Library of Congress Catalog Card Number: 83-42537

ISBN 0-671-41819-X

Previous editions of this book were published by The World Publishing Company,
William Collins + World Publishing Co., Inc.
and William Collins Publishers, Inc.

or controls its motion, as the fold under the tongue; also spelled *frænum*.

frenz'ic-ally, *adv.* frenzied. [Obs.]

frenz'ied, *adj.* wildly excited; frantic.

frenz'ied-ly, *adv.* madly; distractedly.

fren'zy, *n.*, *pl.* frenzies, [M.E. *frensy*, *frensey*; O.P. *frenchie*; L. *freneticus*; Gr. *frenetikos*, madness, inflammation of the brain, from *phren*, mind.]

fren'zy, *adj.* passionately; madly excited. [Obs.]

fren'zy, *v.t.* frenzied, *pt.* *pp.* frenzying, *ppr.* to fill with frenzy; to make frantic.

fré'on, *n.* [fluorine and -on, as in *neon*, etc.] a colorless gas, ClF₃, used especially as a refrigerant; a trade-mark (Fron).

fré'quence, *n.* [Fr. *fréquence*; L. *fræquentia*, a throng, crowd, from *fræquens* (-entis), crowded.]

1. a crowd; a throng; a concourse; an assembly. [Obs.]

2. same as *frequency*.

fré'quen-cy, *n.*, *pl.* fré'quen-cies, 1. originally, (a) the condition of being crowded; (b) a crowd.

2. the fact of occurring often or repeatedly; frequency.

3. the number of times any action or occurrence is repeated in a given period.

4. in mathematics and statistics, (a) the ratio of the number of actual occurrences to the number of possible occurrences in a given period; (b) the ratio of the number of individuals occurring in a specific class to the total number of individuals under survey.

5. in physics, (a) the number of vibrations or cycles per unit of time; (b) the number of cycles per second of an alternating electric current.

fré'quen-cy mod-u-lá'tion, 1. the changing of the frequency of the transmitting radio wave in accordance with the sound being broadcast.

2. broadcasting that uses this, characterized by freedom from static and more faithful reproduction of sound.

fré'quent, *adj.* frequent, from L. *fræquens* (-entis), crowded, repeated.]

1. often seen or done; happening at short intervals; often repeated; as, we made frequent visits to the hospital.

2. accustomed often to practice anything; as, he was frequent and loud in his declamations against the revolution.

3. full; crowded; thronged. [Obs.]

4. told often; of common report. [Obs.]

5. constant; habitual.

Syn.—many, repeated, numerous, recurring, general, continual, usual, common, recurring.

fré'quent, *s.t.* frequented, *pt.* *pp.* frequenting; *fr.* [Fr. *fréquenter*, from L. *fræquenter*, to fill, crowd, visit often, from *fræquens*, crowded, frequent, repeated.] to visit often to be at or in habitually; as, they frequent the theater.

He frequented the court of Augustus. —Dryden.

fré'quent-a-ble, *a.* accessible.

fré'quent-áge, *n.* the practice of frequenting. [Rare.]

fré'quen-tá'tion, *n.* the act or practice of frequenting.

fré'quen-tá'tive, *a.* [LL. *fræquentativus*, frequentative, from *fræquenter*, to do or make use of frequently.] constantly repeating the frequent repetition of an action; as, a *fré'quentative verb*.

fré'quen-tá'tive, *n.* a verb which denotes the frequent occurrence or repetition of an action.

fré'quent-ér, *n.* one who frequents; a constant visitor.

fré'quent-ly, *adv.* often; many times; at short intervals; commonly.

fré'quent-ness, *n.* the quality of being frequent or often repeated.

frère (*frá're*), *n.* [Fr.] 1. a brother. 2. a friar.

frése (*frá'se*), *n.* [O.P. *fréscade*, *fréscade*, from L. *fræscus*, fresh, cool, walk; a shady place.

frés'co, *n.*, *pl.* frés'cos, [It. *fræscò*, *fræscò*, fresh, cool, as noun, colorful, freshness, from O.H.G. *frisc*, fresh.]

1. coolness; shade; a cool, refreshing state of the air. [Obs.]

2. the art or technique of painting with water colors or wet plaster.

3. a picture or painting painted by the above method.

in fresco; with water colors on wet plaster.

frés'co, *v.t.*; *fréscod*, *pt.* *pp.*; *fréscuing*, *ppr.* to paint in fresco.

frésh, *a.* comp. fresher; *superl.* freshest. [M.E. *fresh*, *fresh*, from A.S. *fræsc*, fresh; D. *versch*; O.H.G. *frisc*; L. *fræscus*; Sw. *frisk*; Dan. *frisk*.]

1. brisk; strong; said of the wind.

2. having the color and appearance of youth; lively; as, a *fresh complexion*.

3. new; recently grown or produced; as, *fresh vegetables*; newly laid, as, *fresh eggs*.

4. recently made or obtained; as, a *fresh supply* of goods from the factory.

5. not impaired by time; not forgotten or obliterated; as, the ideas are *fresh* in my recollection.

6. as rose, for the combat.

7. not salt; said of water.

8. recently drawn; pure and cool; not warm or spicy; as, a glass of *fresh water*.

9. original, spontaneous, and stimulating; as, the conversation was *fresh* and delightful.

10. not tired; vigorous; lively; having new vigor; as, he rose *fresh* for the combat.

11. new; that has lately come or arrived; not known before; as, *fresh news*; *fresh dispatches*.

12. sweet; in a good state; not spoiled, rotten, or stale; as, *fresh milk*.

13. not salted, preserved, pickled, etc.; as, *fresh meat*.

14. unpracticed; inexperienced; not before employed; as, a *fresh hand* on board ship.

15. original, spontaneous, and stimulating; bright; clean; as, *fresh linen*.

16. additional; further; as, he made a *fresh start*.

17. designating or of a cow that has newly come into the state of a milker, as after having borne a calf.

frésh, *v.t.* to have just sold or used up. [Slang.]

frésh, *adj.* brisk, strong, vigorous, lively, unimpaired, spirited, florid, ruddy, new, novel, recent, rare, unpracticed, unaccustomed, unused, inexperienced.

frésh, *adj.* *frésh*, bold, impudent.]

1. bold; saucy; impertinent; impudent. [Slang.]

2. kitchen; tippy. [Slang.]

frésh, *n.* 1. a freshet; a stream in overflow.

2. a spring of fresh water flowing into a river or into the ocean.

3. the mingling of fresh water with turbid or salt water, especially the mingling of the waters of a river or brook with the salt water of a bay or estuary.

4. a freshman. [College Slang.]

frésh'en, *v.t.*; *fréshened*, *pt.* *pp.*; *fréshening*, *ppr.* 1. to make fresh; to separate from saline particles; as, to *fréshen* water, fish, or meat.

2. to refresh; to revive.

3. in nautical usage, to apply new service to (a cable), as, to *fréshen* the hawes, to *fréshen* ballast; to pay out or take in a little of the cable of a vessel at anchor, so to expose another part of it to the fraying action at the hawse hole.

4. a student of the first year in a college or of a ship in motion.

frésh'en, *v.i.* 1. to grow or become fresh.

2. to have a calf; said of a cow.

3. to come into milk.

frésh'et, *n.* 1. a flood or overflowing of a river, on account of heavy rains or melted snow.

2. a freshet or rush of fresh water flowing into the sea.

frésh-look'ing, *a.* appearing fresh.

fréshly, *adv.* 1. in a fresh manner.

2. recently; just now; newly.

frésh'mán, *n.*; *pl.* *frésh'men*, 1. a novice; a beginner.

2. a student of the first year in a college or high school.

3. a person in his first year at any enterprise, as, Senator Smith is a *fréshman* in Congress.

frésh'mán, *a.* of or for first-year students; as, the *fréshman* curriculum.

frésh'mán, *n.* the freshman.

frésh'mán ship, *n.* the state of a freshman.

frésh'mán-ship, *n.* the condition or quality of being fresh, in any sense of the word.

frésh-ness, *n.* unpracticed. [Obs.]

frésh-wá'ter, *n.* 1. accustomed to sail on fresh water.

2. raw; unskilled; inexperienced; as, *frésh-water* soldiers.

3. in or of the hinterland; inland.

4. somewhat provincial, obscure, etc.; as, a *frésh-water* college.

5. pertaining to, produced by, or living in water that is fresh, or not salt; as, *frésh-water* animals; *frésh-water* fish.

frés'fón, *n.* in logic, one of the valid modes of reasoning.

fret, *n.* a strait. [Obs.]

fret, *v.t.*; *fretted*, *pt.* *pp.*; *fretting*, *ppr.* [M.E. *frætan*; A.S. *frætan*, contr. of *fordan*, to eat up; devour; *for-*, and *etan*, to eat.]

1. to wear away by gnawing, rubbing, chafing, corroding, rusting, etc.; also, to make a form by wearing away.

2. to gnaw; to eat away; as, a worm *fret* the banks of a ship.

3. to agitate; to irritate; to make rough; to cause to ripple; as, to *fret* the surface of water.

4. to tease; to irritate; to vex; to make angry.

Fret not thyself because of evil-doers. —Ps. xxviii. 1.

5. to devour. [Obs.]

Syn.—chafe, gall, vex, anger, gnaw, corrode, rub, agitate, disturb.

fret, *v.t.* 1. to gnaw (into, on, upon).

2. to be worn away; to be corroded; worn, frayed, etc.; as, any substance will in time *fret* away by friction.

3. to be agitated; to become rough or disturbed.

4. to be vexed; to be chafed or irritated; to be annoyed or annoyed; to worry.

5. to fret, he fumes, he stans, he frets, he grounds. —Dryden.

fret, *n.* 1. the agitation of the surface of a fluid, as when boiling, fermenting, etc.

2. a wearing away.

3. a worn place.

4. irritation; annoyance; worry.

5. in mining, the washed side of a river bank, showing outcroppings by means of which miners are able to locate veins of ore.

6. a cutaneous eruption, as tetters, a chafing, as in the folds of the skin of fat children.

fret, *v.t.*; *fretted*, *pt.* *pp.*; *fretting*, *ppr.* [O.P. *frætan*, *frætan*, to cross, interpose, from *frætan*, iron band, ferrule, from LL. *frælla*, and *grating*] to ornament with a fret or fretwork.

fret, *n.* [O.P. *frætan*, an iron band, ferrule, from LL. *frælla*, an iron grating, iron railing, from L. *ferum*, iron.]

1. an ornamental net or network, especially one formerly worn by women as a headdress.

2. an ornamental pattern of small, straight bars intersecting or joining one another at right angles to form a regular design, as for a border.

3. in architecture, an ornamental pattern of this kind in relief; fretwork.

4. in heraldry, a transverse cross interlaced with a lozenge, diamond-shaped figure.

fret, *n.* [Fr. *fréte*, a band, a ring, from O.P. *fréte*, to make fast.]

1. any of several narrow, lateral ridges fastened across the middle of a banjo, guitar, mandolin, etc., to regulate the fingering.

2. a caul of gold or silver wire worn by ladies in the hair.

fret, *v.t.* to furnish with frets.

fret'ful, *a.* disposed to fret; ill-humored; peevish; angry; in a state of vexation; as, a *fret'ful* temper.

Syn.—peevish, cross, captious. —Peevish marks the inward spirit, and *fretful* the outward act, while both imply a complaining, impatient. —Cræm.

frétted, *a.* vexatious; mingled with vexation or anger.

fret'ful-ly, *adv.* peevishly; angrily.

fret'fulness, *n.* peevishness; ill-humor; disposition to complain.

fret saw, a saw with a long, narrow, fine-toothed blade, for cutting thin wooden boards or plates.

frette, *n.* [Fr. *a hoop*.] a hoop of steel wrought iron for strengthening the outside of a cannon or gun.

fret'ful, *ppr.* tense and past participle of *fret* (to ornament). *a.* decorated with frets.

fret'ted, [tense and past participle of *fret* (to vex).] *a.* 1. away; chafed.

2. worried; anxious; discontented.

Webster's
Third
New International
Dictionary
OF THE ENGLISH LANGUAGE
UNABRIDGED

A Merriam-Webster

REG. U.S. PAT. OFF.

*Utilizing all the experience and resources of more than
one hundred years of Merriam-Webster® dictionaries*

EDITOR IN CHIEF

PHILIP BABCOCK GOVE, Ph.D.

AND

THE MERRIAM-WEBSTER

EDITORIAL STAFF



MERRIAM-WEBSTER INC., *Publishers*



A GENUINE MERRIAM-WEBSTER

The name *Webster* alone is no guarantee of excellence. It is used by a number of publishers and may serve mainly to mislead an unwary buyer.

Merriam-Webster™ is the name you should look for when you consider the purchase of dictionaries or other fine reference books. It carries the reputation of a company that has been publishing since 1831 and is your assurance of quality and authority.

COPYRIGHT © 1993 BY MERRIAM-WEBSTER, INCORPORATED

PHILIPPINES COPYRIGHT 1993 BY MERRIAM-WEBSTER, INCORPORATED

WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY
PRINCIPAL COPYRIGHT 1961

Library of Congress Cataloging in Publication Data
Main entry under title:

Webster's third new international dictionary of the English language,
unabridged: a Merriam-Webster / editor in chief, Philip Babcock
Gove and the Merriam-Webster editorial staff.

cm.
ISBN 0-87779-201-1 (blue sturdite).—ISBN 0-87779-202-X
(carrying case).—ISBN 0-87779-206-2 (imperial buckram).

I. English language—Dictionaries. I. Gove, Philip Babcock,
1902–1972. II. Merriam-Webster, Inc.
PE1625.W36 1993
423–dc20

93-10630
CIP

All rights reserved. No part of this book covered by the copyrights hereon may be reproduced or copied in any form or by any means—graphic, electronic, or mechanical, including photocopying, taping, or information storage and retrieval systems—without written permission of the publisher.

MADE IN THE UNITED STATES OF AMERICA

47484950QPH 979695

— used of locks of wool
 fr̥ib(ə)ʁ(ə) *n*, usu cap [fr. *Fribourg*, canton of Switzerland]: a Swiss breed of black and white cattle used for beef, meat, and draft
 fr̥i-kən-də *n*, pl fr̥i-kən-dəz also fr̥i-kən-dəz also fr̥i-kən-dəz [fr. MF, irreg. fr. *fricasser*]: larded veal roasted